

Remarks

The Office Action mailed October 13, 2005 and made final has been carefully reviewed and the following remarks are made in consequence thereof.

Claims 1-20 are now pending in this application. It is respectfully submitted that the pending claims define allowable subject matter.

An information disclosure statement is submitted herewith including a European search report generated pursuant to a foreign counterpart application to the present application. Applicants request consideration of the search report and in initialed form 1449 for Applicants records in the next communication from the Office.

The rejection of claims 1 and 3-9 under 35 U.S.C. § 102(e) as being unpatentable over Weikhorst et al. (U.S. Patent Application Publication 2004/0055779) is respectfully traversed.

The rejection of claims 1 and 3-9 is respectfully traversed for the reasons set forth in Applicants previous response. In the Final Office Action, it is asserted that nowhere in the Office Action does Weikhorst et al. disclose that the outer surface of the core element and the inner surface of the jacket are smooth, and that Applicants need to show the structural difference between the prior art and the claimed invention. In response, Applicants note that nowhere does Weikhorst et al. disclose that the outer surface of the core element and the inner surface of the jacket are not smooth, and that when reading the entire Weikhorst et al. as a whole and in context, Applicants' position with respect to the Weikhorst et al. reference is not unreasonable. The burden lies on the Patent Office to establish that the prior art teaches the claimed invention, and Applicants have rebutted the position taken in the previous Office Action with respect to the Weikhorst reference and now being maintained in the Final Office Action. It is respectfully submitted that the Final Office Action improperly shifts the burden to the Applicants to prove a negative, namely that aspects of the claims are not found in the Weikhorst et al. reference, when

Weikhorst et al. is simply silent regarding material aspects of the claims. The Final Office Action appears to overlook clearly recited elements of the claims that are simply not found in the Weikhorst et al. reference. Thus, the rejection is submitted to be procedurally improper and should be reconsidered and withdrawn.

Notwithstanding the above, submitted herewith is a Declaration of Prior Invention from one of the inventors that evidences conception and reduction to practice of the presently claimed invention at a date prior to March 14, 2003 when the Weikhorst et al. patent application was filed. In light of the declaration, the Weikhorst et al. patent is antedated and disqualified as prior art that can be properly cited against the claims. The declaration therefore overcomes the rejection based upon Weikhorst et al.

For the reasons set forth above, Applicants respectfully request that the Section 102(e) rejection of claims 1 and 3-9 be withdrawn.

The rejection of claims 2 and 10-20 under 35 U.S.C. § 102(e) as being unpatentable over Weikhorst et al. in view of Koyasu et al. (U.S. Patent Application Publication 2003/0205402) is respectfully traversed.

As Weikhorst et al. has now been antedated and disqualified as prior art, the Section 103(a) rejection of claims 2 and 10-20 that rely upon Weikhorst et al. is now overcome.

Incidentally, Applicants note that the Koyasu reference has a filing date of April 28, 2003 that is after the filing date of Weikhorst et al. Thus, the Declaration of Prior Invention also antedates Koyasu and disqualifies Koyasu from prior art that can be asserted against the claims.


For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of claims 2 and 10-20 be withdrawn.

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In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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